

Robert A. Mittelstaedt (SBN 060359)  
Jason McDonell (SBN 115084)  
Elaine Wallace (SBN 197882)  
JONES DAY  
555 California Street, 26<sup>th</sup> Floor  
San Francisco, CA 94104  
Telephone: (415) 626-3939  
Facsimile: (415) 875-5700  
ramittelstaedt@jonesday.com  
jmcdonell@jonesday.com  
ewallace@jonesday.com

Tharan Gregory Lanier (SBN 138784)  
Jane L. Froyd (SBN 220776)  
JONES DAY  
1755 Embarcadero Road  
Palo Alto, CA 94303  
Telephone: (650) 739-3939  
Facsimile: (650) 739-3900  
tglanier@jonesday.com  
jfroyd@jonesday.com

Scott W. Cowan (Admitted *Pro Hac Vice*)  
Joshua L. Fuchs (Admitted *Pro Hac Vice*)  
JONES DAY  
717 Texas, Suite 3300  
Houston, TX 77002  
Telephone: (832) 239-3939  
Facsimile: (832) 239-3600  
swcowan@jonesday.com  
jlfuchs@jonesday.com

Attorneys for Defendants  
SAP AG, SAP AMERICA, INC., and  
TOMORROWNOW, INC.

BINGHAM McCUTCHEN LLP  
DONN P. PICKETT (SBN 72257)  
GEOFFREY M. HOWARD (SBN 157468)  
HOLLY A. HOUSE (SBN 136045)  
ZACHARY J. ALINDER (SBN 209009)  
BREE HANN (SBN 215695)  
Three Embarcadero Center  
San Francisco, CA 94111-4067  
Telephone: (415) 393-2000  
Facsimile: (415) 393-2286  
donn.pickett@bingham.com  
geoff.howard@bingham.com  
holly.house@bingham.com  
zachary.alinder@bingham.com  
bree.hann@bingham.com

DORIAN DALEY (SBN 129049)  
JENNIFER GLOSS (SBN 154227)  
500 Oracle Parkway  
M/S 5op7  
Redwood City, CA 94070  
Telephone: (650) 506-4846  
Facsimile: (650) 506-7114  
dorian.daley@oracle.com  
jennifer.gloss@oracle.com

Attorneys for Plaintiffs  
Oracle USA, Inc., Oracle International  
Corporation, Oracle EMEA Limited and  
Siebel Systems, Inc.

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

OAKLAND DIVISION

ORACLE USA, INC., *et al.*,

Plaintiffs,

v.

SAP AG, *et al.*,

Defendants.

Case No. 07-CV-1658 PJH (EDL)

**STIPULATION TO PERMIT  
DEFENDANTS TO FILE UNDER  
SEAL PLAINTIFFS' INFORMATION  
SUPPORTING DEFENDANTS'  
REPLY TO PLAINTIFFS'  
OPPOSITION TO DEFENDANTS'  
MOTION FOR PARTIAL SUMMARY  
JUDGMENT**

STIPULATION IN SUPPORT OF DEFENDANTS'  
ADMINISTRATIVE MOTION  
Case No. 07-CV-1658 PJH (EDL)

1 Pursuant to Local Rules 7-11(a) and 79-5(c), Plaintiffs Oracle USA, Inc., Oracle  
2 International Corporation, Oracle EMEA Limited and Siebel Systems, Inc. ("Plaintiffs") and  
3 Defendants SAP AG, SAP America, Inc. and TomorrowNow, Inc. ("Defendants," and together  
4 with Plaintiffs, the "Parties") jointly submit this Stipulation to Permit Defendants to File Under  
5 Seal Plaintiffs' Information Supporting Defendants' Reply to Plaintiffs' Opposition to  
6 Defendants' Motion for Partial Summary Judgment.

7 WHEREAS, Defendants filed their Reply to Plaintiffs' Opposition to Defendants' Motion  
8 for Partial Summary Judgment Regarding Plaintiffs' Hypothetical License Damages Claim on  
9 October 7, 2009 ("Reply");

10 WHEREAS, at Plaintiffs' request, Defendants have filed an Administrative Motion to  
11 Permit Defendants to File Under Seal Plaintiffs' Information Supporting Defendants' Reply;

12 WHEREAS the requested relief is necessary and narrowly tailored to protect the alleged  
13 confidentiality of the materials put at issue by the Reply until such time as the Court makes a final  
14 ruling as to confidentiality of the relevant subject matter. Specifically, the following excerpts of  
15 the Reply contain information designated by Plaintiffs as "Highly Confidential Information -  
16 Attorneys' Eyes Only": 7:25-26; 7:28; 8:3-4; 8:6-7; 8:9-11; and 8:12-17. Additionally, the  
17 following excerpts of the Reply contain information designated by Plaintiffs as "Confidential  
18 Information": 7:12-13; 7:16-17; 7:19-20; 7:22; and 15:14-15.

19 NOW, THEREFORE, IT IS HEREBY STIPULATED by the Parties, through their  
20 respective counsel of record, that Defendants be permitted to move for permission to file under  
21 seal portions of the Reply, as described above. The Parties further agree that Defendants reserve  
22 their rights to challenge the confidentiality of the information filed under seal pursuant to this  
23 Stipulation. While the Parties agree that portions of the Reply may be publicly filed, the Parties  
24 also agree that the filing shall not be construed as a waiver of any confidentiality designation or  
25 other protection with respect to documents, transcripts or other information referred to in, or that  
26 serve as the basis for, the allegations or arguments made in it.

27 **IT IS SO STIPULATED.**  
28

1 DATED: October 7, 2009

JONES DAY

2  
3 By: /s/ Tharan Gregory Lanier  
4 Tharan Gregory Lanier

5 Attorneys for Defendants  
6 SAP AG, SAP AMERICA, INC., and  
TOMORROWNOW, INC.

7 In accordance with General Order No. 45, Rule X, the above signatory attests that  
8 concurrence in the filing of this document has been obtained from the signatory below.

9 DATED: October 7, 2009

BINGHAM McCUTCHEN LLP

10  
11 By: /s/ Geoffrey M. Howard  
12 Geoffrey M. Howard

13 Attorneys for Plaintiffs  
14 ORACLE USA, INC., ORACLE  
15 INTERNATIONAL CORPORATION,  
ORACLE EMEA LIMITED, and SIEBEL  
16 SYSTEMS, INC.